

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JEFFREY E. HOWELL,)	
)	
Plaintiff,)	
)	
v.)	No. 1:16-cv-01377-JMS-DML
)	
STATE OF INDIANA,)	
GREG ZOELLER,)	
INDIANA DEPARTMENT OF)	
CORRECTION,)	
KEITH BUTTS,)	
CITY OF INDIANAPOLIS,)	
DARIN ODIER,)	
SHANI ANDERSON,)	
MICHAEL THAYER,)	
CLARK COUNTY, INDIANA,)	
DANIEL RODDEN,)	
LIBERTY BEHAVIORAL HEALTH,)	
BENJAMIN JAMES,)	
CARY REZMAN,)	
KELLY HOFFMAN,)	
)	
Defendants.)	

**Entry Denying Motions For Temporary Restraining Order and Preliminary Injunction
Relating to Ind. Code. § 11-8-8-8(a)(7)**

Mr. Howell's *ex parte* motion for temporary restraining order ("TRO") to prohibit the State from enforcing Ind. Code. § 11-8-8-8(a)(7) [dkt. 5] and his motion for preliminary injunction [dkt. 8] have been considered. This statute requires sex offenders, when they register, to provide "(7) Any electronic mail address, instant messaging username, electronic chat room username, or social networking web site username that the sex or violent offender uses or intends to use." Mr. Howell argues that this provision violates his First Amendment rights protecting anonymous speech.

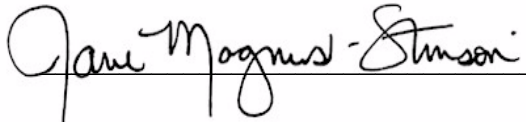
In accordance with Rule 65 of the *Federal Rules of Civil Procedure*, a TRO may be issued without notice only if specific facts “show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” Rule 65(b)(1)(A). “The essence of a temporary restraining order is its brevity, its ex parte character, and ... its informality.” *Geneva Assur. Syndicate, Inc. v. Medical Emergency Servs. Assocs. S.C.*, 964 F.2d 599, 600 (7th Cir. 1992). In addition to the immediate and irreparable damage requirement for a TRO, to justify issuance of preliminary injunctive relief, Mr. Howell must first demonstrate that 1) he has a reasonable likelihood of success on the merits, 2) he has no adequate remedy at law, and 3) he will suffer irreparable harm if preliminary injunctive relief is denied. *See Stifel, Nicholas & Company, Inc. v. Godfre & Kahn*, 807 F.3d 184, 193 (7th Cir. 2015). Contrary to Mr. Howell’s assertion that he will face serious and irreparable harm if temporary injunctive relief without notice is not provided, the Court finds otherwise.

Here, Mr. Howell cannot demonstrate a reasonable likelihood of success on the merits because the Indiana Court of Appeals has ruled that this statutory provision “serves a significant governmental interest” and does not violate First Amendment rights. *Harris v. State*, 985 N.E.2d 767, 776 (Ind.Ct.App. 2013) (“we reject [plaintiff’s] claim that I.C. § 11-8-8-8(a)(7) chills his expression under the First Amendment.”). “[D]isclosure of online identifiers does not ‘unnecessarily interfere with his First Amendment freedom to speak anonymously.’” *Id.* (quoting *Doe v. Shurtleff*, 628 F.3d 1217, 1225 (10th Cir. 2010)). “This is so because the First Amendment protects anonymity where it serves as a catalyst for speech.” *Id.* (internal quotation omitted). A sex offender is not “forced to reveal his identity as a prerequisite for expression.” *Id.* None of the case law relied on by Mr. Howell is from an Indiana court nor does it address the Indiana statute.

Under the current status of Indiana law, Mr. Howell cannot show that immediate and irreparable harm will result if a TRO is not issued. Therefore, Mr. Howell's motion for a TRO [dkt. 5] is **denied**. Similarly, he has not shown a reasonable likelihood of success on the merits of his claim challenging the constitutionality of Ind. Code. § 11-8-8-8(a)(7), so his motion for preliminary injunction [dkt. 8] is **denied**.

IT IS SO ORDERED.

Date: June 17, 2016

A handwritten signature in black ink that reads "Jane Magnus-Stinson". The signature is written in a cursive, flowing style. The first name "Jane" is written with a large, looped capital "J". The last name "Stinson" is written with a large, looped capital "S".

Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

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